

BOARD OF APPEALS CASE NO. 5185

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BEFORE THE

APPLICANTS: Eddie & Rosalind Horton

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ZONING HEARING EXAMINER

**REQUEST: Variances to permit a 6-8 foot high
fence, shed, deck and patio within the front yard;
1888 Grempler Way, Edgewood**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 10/24/01 & 10/31/01

HEARING DATE: December 5, 2001

Record: 10/25/01 & 11/2/01

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Eddie & Rosalind Horton, are requesting a variance, pursuant to Section 267-26C(4) of the Harford County Code, to allow a proposed deck, existing patio and shed within the required front yard, and a variance, pursuant to Section 267-24B(1), to allow an existing fence higher than permitted four (4) feet (6-8 foot fence existing).

The subject parcel is located at 1888 Grempler Way, Edgewood, Maryland 21040 and is more particularly identified on tax Map 65, Grid 2E, Parcel 958. The parcel consists of 1,160 square feet, is zoned R4 Urban Residential District and is entirely within the First Election District.

Ms. Rosalind Horton appeared and indicated that she was the Applicant and property owner in this case. The witness described her property as being within the Edgewater Village subdivision and further, within the Watergate townhouses. Her home is on the east side of Grempler Way and backs up to Tree Top Drive, thus, there is a road to both the front and rear of her property. The Applicant intends to build a 10 foot by 14 foot deck to utilize the walk out already existing on the house. She also intends to replace an existing 6 foot fence which was built at the time the townhouses were constructed and extends along Tree Top Drive behind a number of neighboring homes. The Applicant stated that there are numerous similarly sized decks in her neighborhood and such a deck on her home would increase the outdoor enjoyment and use of her property. The witness did not believe any adverse impacts would result from construction of the deck or replacement of the fence. Because there are roads to both the front and rear of her property the witness stated that her property was unique and subject to two front yard setbacks. Because of these limitations, nothing could be added to the rear of her home without a variance.

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Mr. James Ehrich appeared and identified himself as both a neighbor and president of the Edgewater Village Homeowner's Association. Mr. Ehrich was only curious as to what was planned because no application for a deck or fence had been made to the Homeowner's Association by the Applicant. After hearing the Applicant's testimony, Mr. Ehrich stated that gaining Homeowner Association approval for the deck and fence would be no problem and he generally supported the request of the Applicant. He did request, and the Applicant agreed, that a condition of the variance approval be obtaining the agreement of the Homeowner's Association for the project.

There were no persons who appeared in opposition to the request. The Department of Planning and Zoning recommends approval of the two requested variances, agreeing that the subject property is unique and the constraints result from this unique dual front yard configuration.

CONCLUSION:

The Applicant is requesting a variance, pursuant to Section 267-26C(4) of the Harford County Code, to allow a proposed deck, existing patio and shed within the required front yard, and a variance, pursuant to Section 267-24B(1), to allow an existing fence higher than permitted four (4) feet (6-8 foot fence existing).

Section 267-26C(4) provides:

"No accessory use or structure shall be established within the required front yard, except agriculture, signs, fences, walls or parking area and projections or garages as specified in Section 267-23C, Exceptions and modifications to minimum yard requirements."

Section 267-24B(1) provides:

"Fences and walls. Fences and walls may be located in required yards in accordance with the following:

- (1) Front yards. For single-family detached units, walls and fences shall not exceed four feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent and coordinated pattern throughout the project, fences and walls may be constructed to a maximum of six feet above ground elevation. For continuing care retirement communities, consistent and coordinated fencing or walls may be constructed to a maximum of eight feet above ground elevation provided strategically located gates are provided for emergency access."

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Harford County Code Section 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."**

The Hearing Examiner agrees with the witnesses that the subject parcel is unique. It is constrained by size and a two front yard setback configuration. The deck is similar to many other decks found in this development and throughout Harford County and will result in no adverse impacts. The fence appears to have been built at the time of the original construction and lines Tree Top Drive behind a number of properties. Mr. McClune, testifying on behalf of the Department of Planning and Zoning indicated that a fence is permitted to be 6 feet in height if it is integral to the unit design and consistent throughout the project. Based on the testimony of the Applicant, she intends to replace damaged areas of the fence but it will maintain its consistent design and height as previously and as to the remaining fence located behind neighboring properties. It does not appear to the Hearing Examiner that a variance is necessary for the replacement of the existing fence.

As to the request to construct a deck, the existing patio and shed, the Hearing Examiner recommends approval, subject to the following conditions:

- 1. The Applicant obtain any and all necessary permits and inspections from Harford County.**
- 2. The Applicant apply for and obtain written approval for the deck from the Applicant's Homeowner's Association.**

Date JANUARY 15, 2002

**William F. Casey
Zoning Hearing Examiner**